IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARY BAIN PEARSON and JOHN MASON, Plaintiffs	§	CIVIL ACTION NO. H-02-0670
v.	§	CONSOLIDATED LEAD NO. H-01-3624
ANDREW S. FASTOW, *et al*, Defendants	§	
RUBEN and IRENE DELGADO and PRESTON CLAYTON Plaintiffs	§	CIVIL ACTION NO. H-02-0673
v.	§	CONSOLIDATED LEAD NO. H-01-3624
ANDREW S. FASTOW, *et al*, Defendants	§	

THE *PEARSON* AND *DELGADO* PLAINTIFFS' JOINT REPLY TO KOPPER'S OPPOSITION TO REMAND

TO THE HONORABLE COURT:

Plaintiffs Mary Bain Pearson and John Mason, and Ruben and Irene Delgado and Preston Clayton, jointly reply to the combined opposition to remand filed by Defendant Michael Kopper (Kopper). In further support of remand Plaintiffs show the Court the following:

I. INTRODUCTION

The *Pearson* action — filed on behalf of two plaintiffs — and the *Delgado* action — filed on behalf of three — were both brought in Harris County, Texas. Defendant Arthur Andersen, L.L.P. (Andersen) improperly removed both actions under the Securities Litigation Uniform Standards Act of 1998, Pub. L. No. 105-353, 112 Stat. 3227 (SLUSA). Both sets of Plaintiffs moved to remand on grounds that Andersen did not meet even SLUSA's threshold requisite that

451

each lawsuit be a "covered class action," which by statutory definition needs more than fifty plaintiffs, not two or three.

Andersen filed a combined opposition to remand, and Plaintiffs' reply has been filed. Kopper now also opposes remand of *Pearson* and *Delgado*. The *Pearson* and *Delgado* Plaintiffs incorporate their motions to remand and supporting memoranda in this joint reply. In reply they respond briefly to Kopper's argument, which mirrors Andersen's, that this case falls within SLUSA's purview. A review of Kopper's combined opposition establishes the lack of authority to support the proposition that individual securities-related actions may not be maintained in state court. Plaintiffs also reply to Kopper's erroneous contention that their claims arise under federal law.[1]

In short, nothing in Kopper's opposition allows for the aggregation of plaintiffs in separately filed actions, which is the primary basis for Andersen's removal of the two actions. The Court should grant Plaintiffs' motions to remand, and remand *Pearson* to the 164th Judicial District Court of Harris County, Texas, and *Delgado* to the 55th Judicial District Court of Harris County, Texas, where the cases were filed originally.

II. ARGUMENT

A. Kopper Omits Relevant Legislative History of SLUSA

Kopper argues that remand should be denied because "Congress . . . has preempted all state law security actions falling within [the] parameters [of SLUSA and the PSLRA]. *See* opposition at 4. He continues by referring to the legislative history of SLUSA and including an out-of-context excerpt of a Senate report. *Id.* Kopper's argument lacks merit for two reasons First, reference to the legislative history of SLUSA is unnecessary in this case. Second,

---

[1] Kopper does not brief the issue but instead joins in other Defendants' briefing.

however, the statute's legislative history establishes Congress' intent that individual non-class securities-related actions be maintained in state court.

The supreme court is unequivocal about the construction of an unambiguous statute:

> Our first step in interpreting a statute is to determine whether the language issue has a plain and unambiguous meaning with regard to the particular dispute in the case. Our inquiry must cease if the statutory language is unambiguous and "the statutory scheme is coherent and consistent."

See Robinson v. Shell Oil Co., 519 U.S. 337, 340 (1997) (citations omitted). Understandably, no court has held SLUSA ambiguous because the statutory language speaks for itself; for a case to be a "covered class action," the statute plainly requires more than fifty plaintiffs. Therefore, under the Supreme Court's instruction, any inquiry must cease at the statute's wording.

Courts' interpretation of SLUSA as an unambiguous statute is hardly a novel legal concept. In fact, this Court has recently concluded just that. *See In re Waste Mgmt., Inc. Secs. Litig.*, _____ F.Supp. 2d _____, 2002 WL 464222 (S.D. Tex. Feb. 5, 2002).

In discussing SLUSA, the Court concluded that the statute "preempt[ed] **class actions** based on state statutory or common law involving a 'covered security' as defined in that act." *Id.* at *2 (emphasis supplied). It continued by observing that therefore "SLUSA in essence made federal court the exclusive venue for **securities fraud class actions** meeting its definitions and ensured they would be governed exclusive by federal law." *Id.* (emphasis supplied). And the Court also noted that "a [House] report indicates that in SLUSA Congress did not evidence an intent to occupy the entire field of securities regulation, but expressly delineated the scope of preemption . . . ." *Id.* Further, according to this Court, "with respect to removal, the plain language of SLUSA . . . evidences Congress' intent to preempt a specifically defined category of state-law class actions . . . ." The Court then went on to provide the statutory definition of a "covered class action." *Id.* at *2-3.

Resort to the history of SLUSA is unnecessary because of its unambiguous wording. Assuming, however, that the Court wishes to look further into the statute's legislative history, both Senate and House reports establish that individual non-class actions are entitled to be brought and maintained in state court.

In his opposition at 4, Kopper quotes an out-of-context excerpt from a May 1998 Senate report. But the same report, in discussing the definition of "class action," reinforces Plaintiffs' position:

> The definition of class action originally drafted as part of S. 1260 would inadvertently include cases that were beyond the intent of the legislation — such as certain types of individual state private securities actions. . . . .
>
> In order to ensure that individual state actions would not be included as part of the bill's definitions . . . . the committee specifically included a threshold number of 50 or more persons . . . as part of the definition of a class action under this legislation.

See S. Rep. No. 105-182, 1998 WL 226714 at *6. Similarly, some five months later, a Senate conference report noted the following:

> The purpose of [SLUSA] is to help ensure that securities fraud class actions involving certain securities traded on national markets are governed by a single set of uniform standards. **While preserving the right of individual investors to bring securities lawsuits wherever they choose**, the bill generally provides that class actions can be brought only in federal court where they will be governed by federal law.

144 Cong. Rec. S12444-01, 1998 WL 712149 (Cong. Rec.) at *S 12445 (emphasis supplied). Likewise, the House explained that SLUSA was enacted to solve the problem presented by the Private Securities Litigation Reform Act of 1998, Pub. L. 104-67, 109 Stat. 737 (PSLRA). The enactment of the PSLRA resulted in many securities class actions being brought in state court. Therefore, SLUSA was passed "to make federal court the exclusive venue for most securities

fraud class action litigation involving nationally traded securities." 144 Cong. Rec. H10771-02, 1998 WL 712049 at *H10775.

In short, the legislative history of SLUSA does not begin to support Kopper's argument. The legislative history, if relevant at all, serves only to further buttress Plaintiffs' position.

In his opposition at 5, Kopper also cites *Gibson v. PS Group Holdings, Inc.,* 2000 WL 777818 (S.D. Cal. June 14, 2000), to support his contention that plaintiffs in separately filed actions may be aggregated to create a "covered class action" — the foundation underlying Andersen's removal of *Pearson* and *Delgado*. *Gibson* is of no help to Kopper. First, the case was an undisputed class action, which obviates the aggregation theory devised by Andersen at removal and now copied by Kopper. Second, despite being a class action the case was remanded (under the Delaware carve-out exception). *Id.* at *6. Third, at issue in *Gibson* was the fact that the class action plaintiffs had deleted a prayer for damages, in an apparent attempt to avoid SLUSA's "covered class action" definition. *Id.* at *3. In no way is *Gibson* controlling here. Significantly, Kopper fails to cite a single opinion holding that plaintiffs in separate suits may be added up to reach SLUSA's fifty-person minimum.

B. Plaintiffs' State Law Claims Cannot be Preempted

Realizing that his interpretation of SLUSA rests on precarious legal grounds, Kopper attempts to find an independent jurisdictional basis for the two cases to remain in this Court. He does so by trying to recharacterize the *Pearson* and *Delgado* petitions — both of which advance only state common law claims in state court — as asserting federal securities violations (insider trading and fraud-on-the-market). He then contends that "securities fraud actions such as those pled" in *Pearson* and *Delgado* are preempted. Kopper's argument fails.

A plaintiff is generally the master of his complaint. *See, e.g., Avitts v. Amoco Prod. Co.*, 53 F.3d 690, 693 (5th Cir. 1995) (citations omitted). Therefore, when both federal and state remedies are available, a plaintiff may elect to proceed exclusively under state law. That election does not give rise to federal jurisdiction. *See id.* (citation omitted).

Under the "artful pleading" doctrine, however, if a right to relief necessarily depends on the resolution of federal law, the case may arise under federal law. *See Franchise Tax Bd. v. Construction Laborers' Vacation Trust*, 463 U.S. 1, 28 (1983). But a "substantial, disputed question of federal law is a necessary element of one of the well-pleaded state claims." *Id.* at 13. "[T]he mere presence of a federal issue in a state cause of action does not automatically confer federal-question jurisdiction." *Merrell Dow Pharmaceuticals Inc. v. Thompson*, 478 U.S. 804, 813 (1986). "Rather, in determining federal question jurisdiction, courts must make 'principled, pragmatic distinctions,' engaging in 'a selective process which picks the substantial causes of action out of the web and lays the other ones aside.'" *See Zuri-Invest Ag. v. Natwest Fin. Inc.*, 177 F.Supp. 2d 49, 54 (S.D.N.Y. 2001) (quoting *Merrell Dow).*

Plaintiffs' original petitions advance only state common law claims of fraud, negligence and civil conspiracy; and they seek damages based only on those claims.[2] Nevertheless, Kopper tries to transform them into pleadings seeking affirmative relief under federal securities law. Removal is improper under this basis as well.

The most obvious flaw in Kopper's position is evidenced by a review of the pleadings themselves; a substantial federal question is not presented. Second, Kopper misrepresents securities law as being one of complete preemption.

---

[2] Kopper's assertion that Texas does not recognize fraud-on-the-market is irrelevant. The *Pearson* and *Delgado* petitions adequately allege fraud under Texas law. *See* petitions at 29-31. Further, the petitions advance two other state law causes of action that Kopper ignores.

The Securities Exchange Act of 1934 includes a savings clause unambiguously stating that "the rights and remedies provided . . . shall be in addition to any and all other rights and remedies that may exist at law or in equity." *See* 15 U.S.C. § 77bb(a), as amended. And, significantly, this Court has already acknowledged SLUSA's limited preemptive powers: "in SLUSA Congress did not evidence an intent to occupy the entire field of securities regulation, but expressly delineated the scope of preemption . . . ." *See In re Waste Mgmt. Secs. Litig.,* 2002 WL 464222 at *2; *see also Zuri-Invest Ag.,* 177 F.Supp. 2d at 194; *Gold v. Blinder, Robinson & Co., Inc.*, 580 F.Supp. 50, 53 (S.D.N.Y. 1984) (granting motion to remand); *McMahon Chevrolet, Inc. v. Davis,* 392 F.Supp. 322, 324 (S.D. Tex. 1975) (same). In fact, "few statutes possess 'the extraordinary preemptive power' required to occupy a field of law so entirely as to characterize any claims arising thereunder as federal." *See Zuri-Invest Ag.*, 177 F. Supp. 2d at 195 (citation omitted). Rather, "the Supreme Court has recognized complete preemption in just three areas: labor relations, ERISA, and tribal claims." *See Farkas v. Bridgestone/Firestone, Inc.*, 113 F.Supp.2d 1107, 1111 (W.D. Ky. 2000) (citation omitted). The Fourth Circuit summed up the issue of limited securities law preemption:

> It is well-settled that federal law does not enjoy complete preemptive force in the field of securities. . . . "[F]ar from preempting the field, Congress has expressly reserved the role of the states in securities regulation.
>
> * * *
>
> *See* . . . 15 U.S.C. § 78bb(a) (1934 Act's authorization for concurrent state regulation in the securities field). The states enjoy broad powers to regulate such diverse subjects as . . . fraud in the sale or purchase of securities and the rendering of investment advisory services.
>
> * * *
>
> [A state] therefore may provide additional rights and remedies which do not conflict with federal securities law.

* * *

See Baker, Watts & Co. v. Miles & Stockbridge, 876 F.2d 1101, 1107 (4th Cir. 1989); *see also Barbara v. New York Stock Exch., Inc.,* 99 F.3d 49, 55 (2d Cir. 1996) (construing the Exchange Act's savings clause to "plainly refer [ ] to claims created by the Act or by rules promulgated thereunder, but not to claims created by state law").

The *Pearson* and *Delgado* Plaintiffs chose to pursue only state law claims and remedies, as the law obviously entitles them to do. Therefore, Kopper's opposition presents no support for removal on this basis either.

III. CONCLUSION

For all reasons above and in the *Pearson* and *Delgado* Plaintiffs' motions to remand, this Court lacks subject matter jurisdiction. It should order the actions remanded to the 164th and 55th Judicial District Courts of Harris County, Texas, where the two cases were filed originally.

Respectfully submitted,

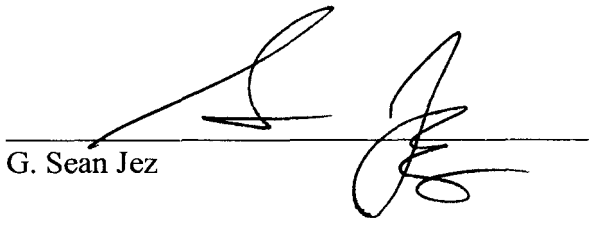
FLEMING & ASSOCIATES, L.L.P.
G. Sean Jez
State Bar No. 00796829
George M. Fleming
State Bar No. 07123000
Sylvia Davidow
State Bar No. 05430551
1330 Post Oak Boulevard, Suite 3030
Houston, Texas 77056-3019
Telephone (713) 621-7944
Fax (713) 621-9638

By: _____
G. Sean Jez

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of The *Pearson* and *Delgado* Plaintiffs' Joint Reply to Kopper's Opposition to Remand has been provided to all parties as indicated on the attached Service List on this the 10th day of April, 2002 by First Class United States Mail, postage prepaid.



G. Sean Jez

SERVICE LIST

Barry G. Flynn
LAW OFFICES OF BARRY G. FLYNN PC
1300 Post Oak Blvd., Suite 750
Houston, TX 77056
713/840-7474
713/840-0311 – Fax
Counsel for David B. Duncan

James E. Coleman, Jr.
Bruce Collins
CARRINGTON COLEMAN ET AL
200 Crescent Court, Suite 1500
Dallas, TX 75201
214/855-3000
214/855-1333 – Fax
Counsel for Kenneth L. Lay

Bruce Hiler
Robert M. Stern
O'MELVENY & MYERS LLP
555 13th St., N.W., Suite 500 W
Washington, DC 20004
202/383-5328
202/383-5414 – Fax
Counsel for Jeff Skilling

Craig Smyser
SMYSER KAPLAN & VESELKA LLP
700 Louisiana St., Suite 2300
Houston, TX 77002
713/221-2330
713/221-2320 -- Fax
Counsel for Andrew S. Fastow

Rusty Hardin
RUSTY HARDIN & ASSOCIATES P.C.
1201 Louisiana, Suite 3300
Houston, TX 77002-5609
713/652-9000
713/652-9800 – Fax

Sidney Liebesman
GRANT & EISENHOFER
1220 N Market St., Suite 500
Wilmington, DE 19801-2599
302/622-7000
302/622-7100 – Fax

Theodore Anderson
KILGORE & KILGORE
3131 McKinney Ave., LB 103
Dallas, TX 75204-2471
214/969-9099
214/953-0133 – Fax

David Martax
Office of Attorney General
P. O. Box 12548
Austin, TX 78711-2548
512/463-2018
512/477-2348 – Fax

Jonathan Plasse
GOODKIND LABATON
100 Park Ave., 12th Floor
New York, NY 10017
212/907-0700

Joseph Albert McDermott, III
Attorney at Law
2929 Allen Pky., Suite 2555
Houston, TX 77019
713/527-9190

Sean Greenwood
Attorney at Law
910 Travis, Suite 2020
Houston, TX 77002
713/650-1200
713/650-1400 – Fax

Saul Roffe
SIROTA & SIROTA LLP
110 Wall St.
New York, NY 10005
212/425-9055
212/425-9093 – Fax

Joe Whatley
WHATLEY DRAKE LLC
2323 2nd Ave N, Suite 1100
Birmingham, AL 35203-4601
205/328-9576
205/328-9669 – Fax

Dr. Bonnie Linden
1226 West Broadway
P. O. Box 114
Hewlett, NY 11557
516/295-7906
516/295-1975 – Fax

Charles Richards, Jr.
RICHARDS LAYTON
P. O. Box 551
Wilmington, DE 19899
302/651-7738

Paul Thomas Warner
REICH & BINSTOCK
4265 San Felipe, Suite 1000
Houston, TX 77027-0001
713/622-7271
713/623-8724 – Fax

Charles King, III
KING & PENNINGTON
711 Louisiana, Suite 3100
Houston, TX 77002-2720
713/225-8400
713/225-8488 – Fax

Don Sampen
Illinois Assistant Attorney General
100 W. Randolph, 13th Floor
Chicago, IL 60601
312/814-6141

Randy McClanahan
MCCLANAHAN & CLEARMAN
700 Louisiana, Suite 4100
Houston, TX 77002
713/223-2005
713/223-3664 – Fax

Richard Norman
CROWLEY DOUGLAS & NORMAN
1301 McKinney, Suite 3500
Houston, TX 77010
713/651-1771
713/651-1775 – Fax

Frank Morgan
Attorney at Law
1776 Woodstead Ct., Suite 228
The Woodlands, TX 77380
281/367-9200
281/367-2453 – Fax

Billy Shepherd
CRUSE SCOTT HENDERSON & ALLEN LLP
600 Travis, Suite 3900
Houston, TX 77002-1720
713/650-6600
713/650-1720 – Fax
Counsel for D. Stephen Goddard, Jr.

Michael Warden
Luisa Caro
SIDLEY AUSTIN BROWN & WOOD LLP
1501 K Street, N.W.
Washington, DC 20005
202/736-8180
202/736-8711 – Fax
Counsel for D. Stephen Goddard, Jr.

Richard Bruce Drubel, Jr.
BOIES SCHILLER ET AL
26 S. Main St.
Hanover, NH 03755
603/643-9090
603/643-9010 – Fax
Counsel for Andrew S. Fastow

Jacks C. Nickens
Paul D. Flack
NICKENS LAWLESS & FLACK LLP
1000 Louisiana, Suite 5360
Houston, TX 77002
713/571-9191
713/571-9652 – Fax
Counsel for Officers: Richard A. Causey (Chief Accounting Officer) and Richard B. Buy (Chief Risk Officer)

John J. McKetta, III
Helen Currie Foster
GRAVES DOUGHERTY HEARON & MOODY
515 Congress, Suite 2300
Austin, Texas 78701
512/480-5600
512/478-1976 – Fax
Counsel for Rebecca Mark-Jusbasche

H. Bruce Golden
Randall C. Owens
GOLDEN & OWENS LLP
1221 McKinney St., Suite 3600
Houston, TX 77010-2010
713/223-2600
713/223-5002 – Fax
Counsel for John A. Urquhart

Zachary W. L. Wright
TONKON TORP LLP
1600 Pioneer Tower
888 S.W. Fifth Ave.
Portland, OR 97204-2099
503/221-1440
503/274-8779 – Fax
Counsel for Ken L. Harrison

J. Clifford Gunter, III
Thomas F. Hetherington
Abby Sullivan
BRACEWELL & PATTERSON LLP
711 Louisiana, Suite 2900
Houston, TX 77002
713/223-2900
713/221-1212 – Fax
Counsel for James V. Derrick, Jr.

Stephen D. Susman
Kenneth Marks
SUSMAN GODFREY LLP
1000 Louisiana, Suite 5100
Houston, TX 77002-5096
713/651-9366
713/654-6670 – Fax
Counsel for Enron Corp.

Eric J. R. Nichols
BECK REDDEN & SECREST
4500 One Houston Center
1221 McKinney
Houston, TX 77010-2010
713/951-3700
713/951-3720 – Fax
Counsel for Michael Kopper

Robin C. Gibbs
Kathy D. Patrick
Robert J. Madden
Jeremy L. Doyle
GIBBS & BRUNS, LLP
1100 Louisiana, Suite 5300
Houston, TX 77002
713/650-8805
713/750-0903 – Fax
Counsel for Outside Directors: Robert K. Jaedicke, Ronnie C. Chan, Joe C. Foy, John Wakeham, Wendy L. Gramm, John Mendelsohn, Paulo V. Ferraz Pereira, Robert A. Belfer, Norman P. Blake, Jr., John H. Duncan, Charles A. LeMaistre, Frank Savage, Herbert S. Winokur, Jr., Jerome J. Meyer and Charles Walker

Tom A. Cunningham
Richard J. Zook
CUNNINGHAM, DARLOW ET AL
600 Travis, Suite 1700
Houston, TX 77002
713/659-5522
713/255-5555 – Fax

Thomas E. Bilek
HOEFFNER & BILEK LLP
440 Louisiana, Suite 720
Houston, TX 77002-1634
713/227-7720
713/227-9404 – Fax

David R. Scott
Neil Rothstein
SCOTT & SCOTT LLC
108 Norwich Ave., Suite 1700
Colchester, CT 06415
860/537-3818
860/537-4432 – Fax

Roger B. Greenberg
SCHWARTZ JUNELL CAMPBELL & OATHOUT, LLP
Two Houston Center
909 Fannin, Suite 2000
Houston, TX 77010
713/752-0017
713/752-0327 – Fax

Jeffrey B. Kaiser
KAISER & MAY LLP
1440 Lyric Centre
440 Louisiana
Houston, TX 77002-1639
713/227-3050
713/227-0488 – Fax

William S. Lerach
John A. Lowther
Alexandra S. Bernay
MILBERG WEISS BERSHAD
HYNES & LERACH LLP
401 B St., Suite 1700
San Diego, CA 92101
619/231-1058
619/231-7423 – Fax

Melvyn I. Weiss
Steven G. Schulman
MILBERG WEISS BERSHAD
HYNES & LERACH LLP
One Pennsylvania Plaza
New York, NY 10119-1065
212/594-5300
212/868-1229 – Fax

James D. Baskin, III
BASKIN BENNETT
919 Congress Ave., Suite 1000
Austin, TX 78701-2508
512/381-6300
512/322-9280 – Fax

Robin L. Harrison
CAMPBELL HARRISON & DAGLEY
909 Fannin, Suite 4000
Houston, TX 77010
713/752-2332
713/752-2330 – Fax

R. Douglas Dalton
Ron Kilgard
DALTON GOTTO SAMSON & KILGARD
3101 N. Central Ave., Suite 900
Phoenix, AZ 85012-2600
602/248-0088
602/248-2822 – Fax

Jack E. McGehee
MCGEHEE & PIANELLI LLP
1225 N. Loop W., Suite 810
Houston, TX 77008
713/864-4000
713/868-9393 – Fax

Robert H. Fritz
FRITZ LAW FIRM
330 T. C. Jester Blvd.
Houston, TX 77007
713/869-2000
713/869-3850 – Fax

Claudia Frost
SLUSSER & FROST
333 Clay St., Suite 4849
Houston, TX 77002
713/860-3300
713/860-3333 – Fax

Robert C. Finkel
WOLF POPPER LLP
12th Floor Library
845 Third Avenue
New York, NY 10022-6601
212/759-4600
212/486-2093 – Fax

Michael Sydow
SYDOW KORMANIK
1111 Bagby, Suite 4650
Houston, TX 77002
713/654-4650
713/752-2199 – Fax

Fred E. Stoops, Sr.
RICHARDSON STOOPS ET AL
The Richardson Bldg.
6555 South Lewis, Suite 200
Tulsa, OK 74136
918/492-7674
918/493-1925 – Fax

Steven E. Cauley
CAULEY GELLER BOWMAN & COATES
P. O. Box 25438
Little Rock, AR 72221-5438
501/312-8500
501/312-8505 – Fax

Bernard Gross
Deborah R. Gross
LAW OFFICES OF
BERNARD M. GROSS PC
1515 Locust St., 2nd Floor
Philadelphia, PA 19102
215/561-3600
215/561-3000 – Fax

Eli Gottesdiener
GOTTESDIENER LAW FIRM
3901 Yuma St., NW
Washington, D.C. 20016
202/243-1000
202/537-1989 – Fax

Michael D. Donovan
DONOVAN SEARLES LLC
1845 Walnut St., Suite 1100
Philadelphia, PA 19103
215/732-6067
215/732-8060 – Fax

Jeffrey Block
Glen DeValerio
Michael Pucillo
Wendy Zoberman
BERMAN DEVALERIO & PEASE LLP
577 Gregory Lane
Devon, PA 19333
610/695-9007
610/695-9023 – Fax

Steve W. Berman
HAGENS BERMAN LLP
1301 Fifth Ave., Suite 2900
Seattle, WA 98101
206/623-7292
206/623-0594 – Fax

Robert B. Weintraub
Jeffrey G. Smith
WOLF HALDENSTEIN ADLER FREEMAN & HERZ
270 Madison Ave.
New York, NY 10016
212/545-4600
212/545-4653 – Fax

John G. Emerson, Jr.
THE EMERSON FIRM
830 Apollo Lane
Houston, TX 77058
281/488-8854
281/488-8867 – Fax

Lynn Lincoln Sarko
Keller Rohrback
1201 Third Ave., Suite 3200
Seattle, WA 98101-3052
206/623-1900
206/623-3384 – Fax

Richard M. Frankel
HACKERMAN FRANKEL & MADELA
1122 Bissonnet
Houston, TX 77005
713/528-2500
713/528-2509 – Fax

Frederic S. Fox
KAPLAN FOX & KILSHEIMER LLP
805 Third Ave., 22nd Floor
New York, NY 10022
212/687-1980
212/687-7714 – Fax

James E Wren, III
WILLIAMS PATTILLO SQUIRES & WREN LLP
Bridgeview Center, 2nd Floor
7901 Fish Pond Road
Waco, TX 76710
254/752-9966
254/741-6300 – Fax

Thomas W Sankey
SANKEY & LUCK LLP
600 Travis St., Suite 6200
Houston, TX 77002
713/224-1007
713/223-7737 – Fax

Paul F. Bennett
Soloman B. Cera
GOLD BENNETT CERA & SIDENER LLP
595 Market St., Suite 2300
San Francisco, CA 94105-2835
415/777-2230
415/777-5189 – Fax

Sherrie R. Savett
BERGER & MONTAGUE
1622 Locust St.
Philadelphia, PA 19103
215/875-3000
215/875-5715 – Fax

Richard M. Heimann
James M. Finberg
Melanie M. Piech
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
Embarcadero Center West
275 Battery St., 30th Floor
San Francisco, CA 94111-3339
415/956-1000
415/956-1008 – Fax

Stephen Lowey
Neil L. Selinger
David C. Harrison
William J. Ban
LOWEY, DANNENBERG, BEMPORAD & SELINGER PC
The Gateway
One North Lexington Ave., 11th Floor
White Plains, NY 10601-1714
914/997-0500
914/997-0035 – Fax

Charles R. Parker
John Roberson
HILL PARKER & ROBERSON LLP
5300 Memorial Dr., Suite 700
Houston, TX 77007-8292
713/868-5581
713/868-1275 – Fax

Glen DeValerio
Jeffrey C. Block
Michael G. Lange
Michael T. Matraia
N. Nancy Ghabai
BERMAN DEVALERIO PEASE ET AL
One Liberty Square
Boston, MA 02109
617/542-8300
617/542-1194 – Fax

Martin D. Chitwood
Jeffrey H. Konis
CHITWOOD & HARLEY
2900 Promenade II
1230 Peachtree St., N.E.
Atlanta, GA 30309-3575
404/873-3900
404/876-4476 – Fax

Damon Young
YOUNG PICKETT & LEE
4122 Texas Blvd.
Texarkana, TX 75503
903/794-1303
903/792-5098 – Fax

Andrew J. Entwistle
Vincent R. Capucci
Catherine A. Torell
Johnston de Forest Whitman, Jr.
ENTWISTEL & CAPPUCCI LLP
299 Park Ave., 14th Floor
New York, NY 10171
212/894-7200
212/894-7273 – Fax

Robert I. Harwood
Frederick W. Gerkins, III
WECHSLER HARWOOD HALEBIAN & PEFFER LLP
488 Madison Ave., 8th Floor
New York, NY 10022-5702
212/935-7400
212/753-3630 - Fax

Laurence D. King
KAPLAN FOX & KILSHEIMER LLP
100 Pine St., 26th Floor
San Francisco, CA 94111
415/336-1238
415/677-1233 – Fax

Joseph J. Tabacco, Jr.
BERMAN DEVALERIO PEASE TABACCO
BURT & PUCILLO
425 California St., Suite 2025
San Francisco, CA 94104
415/433-3200
415/433-6382 – Fax

John Grayson
GRAYSON & HOVENKAMP
1001 McKinney, Suite 1000
Houston, TX 77002
713/739-0058
713/739-0059 – Fax

R. Paul Yetter
YETTER & WARDEN LLP
600 Travis, Suite 3800
Houston, TX 77002
713/238-2000
713/238-2002 – Fax

Michael J. Pucillo
Wendy H. Zoberman
BERMAN DEVALERIO PEASE ET AL
515 North Flagler Dr.
Northbridge Centre, Suite 1701
West Palm Beach, FL 33401
561/835-9400
561/835-0322 - Fax

Blake Tartt
BEIRNE MAYNARD & PARSONS LLP
1300 Post Oak Blvd.
Houston, TX 77056-3000
713/623-0887
713/960-1527 - Fax

Michael Pucillo
BURT & PUCILLO
515 N. Flagler Dr., Suite 1701
West Palm Beach, FL 33401
561/835-9400

Ira Press
Kirby McInerney
830 Third Ave., 10th Floor
New York, NY 10022
212/371-6600

William Pederman
Dreier Baritz
120 N Robinson, Suite 2720
Oklahoma City, OK 73102
405/235-1560
405/239-2112 – Fax

G. Vince DiBlast
Michael B. Miller
Sam Seymour
SULLIVAN & CROMWELL
125 Broad Street
New York, NY 10004
212/558-3156
212/558-3588 – Fax

Scott B. Schreiber
John Massaro
ARNOLD & PORTER
555 Twelfth Street, NW
Washington, D.C. 20004-1206
202/942-5122

Dennis H. Tracey, III
Brad Johnston
HOGAN & HARTSON, L.L.P.
100 Park Avenue
New York, NY 10017
212/916-7210

Amelia Rudolph
SUTHERLAND, ASBILL & BRENNAN, L.L.P.
999 Peachtree Street, NE
Atlanta, Georgia 30309-3996
404/853-8000

Carolyn S. Schwartz
U.S. Trustee, Region 2
33 Whitehall Street, Floor 21
New York, NY 10004
212/510-0500
212/668-2255 – Fax

Paul Vizcarrondo, Jr.
Wachtell Lipton Rosen & Katz
51 West 52nd St.
New York, NY 10019-6150
212/403-1000
fax: 212/403-2000